

Revised

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MEMORANDUM

TO: Joshua Lederberg, Robert Chanock, Thomas Monath, Alexis Shelokov,
and Lynn Rusten

FROM: John Steinbruner

RE: CW negotiations as a potential precedent for BW

Since the active negotiations on controlling chemical weapons provide a relevant context and potentially as well a direct precedent for measures to strengthen the BWC, it seems useful to review the status of these negotiations in preparation for our forthcoming meeting with the Soviet committee.

As you know, there was a bilateral US-Soviet agreement in June providing for a reduction of the respective stockpiles to 5000 metric tons of chemical agents on each side by the end of year 2002. That agreement also terminates production of chemical agents. Meanwhile multilateral negotiations are proceeding under UN auspices for an agreement that is designed to encompass all states. Implementation of the bilateral agreement is proceeding reasonably well while the multilateral negotiations have been disappointingly slow. As a practical matter, therefore, the issues are somewhat different in these two contexts even though the ultimate intent is to create a single comprehensive arrangement.

The Bilateral Agreement

The June bilateral agreement provides for inspection at production and storage facilities supported by prior exchanges of data. Under the terms of the earlier memorandum of understanding signed in September of 1989, the two countries did exchange basic information last December revealing production and storage sites, categories of weapons, the identities of the agents used, and gross quantities held. There is basic satisfaction with the process as it has proceeded to this point. Two of three scheduled visits to storage sites have occurred also with basically satisfactory results. The inspections conducted so far have revealed a basic difference in U.S. and Soviet storage techniques. If the observed Soviet storage techniques have been used at all the facilities in question, that would help explain the historical disparities between Soviet declarations about the amount of chemical agents in their possession and independent U.S. and western estimates of these amounts. Soviet storage arrangements produce a distinctly lower density for a given amount of floor space.

The June agreement calls for an inspection protocol for declared production and storage sites and also for destruction facilities to be worked out by December 31. Bilateral talks resumed this week for the purpose of meeting that deadline. It is expected that this objective will be accomplished. One of the implications is that the Soviets will have to adopt significantly higher American safety standards for protecting inspectors.

The June agreement also called for modalities to be worked out by December 1 for trial challenge inspections. That deadline will not be

achieved. Moreover it is also apparent that the Soviets cannot meet the agreed schedule for destruction of chemical weapons. They do not have an operating destruction facility and are encountering local opposition to creating one. The government remanded the issue to the Supreme Soviet last April and they have not acted on it. Given the emerging pattern of Soviet domestic politics, there is a fair chance that they will be unable to establish an operating facility for quite some time and therefore it is likely that the agreed schedule for reduction will have to be relaxed.

It is apparent from the inspection visits to production facilities conducted thus far that the Soviets have been using multiple purpose facilities which produce chemicals for commercial use as well. Under the rules of the agreement, they will have to destroy these declared facilities and thus will suffer commercial side-effects that the U.S. does not encounter. Since the Soviet facilities viewed so far are technically obsolete, this side-effect might be considered positive in longer term perspective, but there will be some immediate commercial burden.

Multilateral Issues

The multilateral negotiations have been going slowly. The working group dealing with ad hoc inspections is headed by a Pakistani diplomat who is skeptical of their value. The pace may well improve when the Soviets acquire the chairmanship on regular rotation at the beginning of next year, and a ministerial meeting is being discussed to add additional political impulse. The noticeably reserved attitude of the developing countries is acknowledged to be a basic problem, however, particularly among major countries in the Middle East.

The U.S. has also recently caused some controversy by changing its official position on challenge inspections at undeclared facilities. Until last summer the U.S. had espoused a maximalist criteria for these challenge inspections - widely summarized as "anywhere, anytime, no right of refusal." In July we altered that formula to assert the right of refusal primarily for the purpose of protecting a few facilities involved in black programs. The British who were in the process of tightening their own position were chagrined to have the U.S. adjusting in the opposite direction without conducting trial inspections as the basis for adjustment. The Soviets who formally adhere to the strong formula are judged to be quite willing to accept the U.S. qualification, and the British and other U.S. allies are believed to be overcoming their irritation.

If the current U.S. position prevails, there would be routine challenge inspections at declared facilities with well-specified procedural protocols. For undeclared facilities there would be a right to request an inspection without specifying the site in question. An international team of inspectors would then arrive at a designed port-of-entry in the challenged state, specify the site to be inspected, and expect to visit the site within 12 hours. A negotiation would then be conducted regarding the terms of inspection with the established protocol for declared facilities as an obvious model. The burden would fall on the challenged state to address the concerns of the inspectors, either by using the standard inspection protocol or by some other means, but there would be a legal right of refusal. It is believed that if the international inspection team could be satisfied then

the burden would shift to the challenging state to demonstrate any inadequacies in the process.

To date China has been the major state holding an even more qualified position. The Chinese want an international screening process to review any challenge inspection request before the process is triggered. Recently the Germans in the context of CFE have also introduced a qualification that might be generalized. The Germans reflecting concerns about proprietary information have declared that a challenged state should be allowed to permit, to refuse, or to delay a challenge inspection request.